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48175	7590	06/02/2006	EXAMINER LIVERSEDGE, JENNIFER L	
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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/934,826	<b>Applicant(s)</b> GREY ET AL.	
	<b>Examiner</b> Jennifer Liversedge	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 51-106 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-106 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/22/2001 and 3/04/2003</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

The following Office Action is responsive to Applicant's preliminary amendment dated 3/4/2003 regarding application 09/934,826 filed on 8/22/2001.

The amendment contains canceled claims 1-50.

The amendment contains new claims 51-106.

### ***Specification***

The disclosure is objected to because of the following informalities:

Page 45 paragraph 163 states "may require the determining the functional..." and should read "may require determining the functional...".

Page 52 paragraph 182 states "stop 1012" and should read "step 1012".

Appropriate correction is required.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

Figure 2, reference numbers 30 and 50.

Figure 10, reference number 814.

Figure 18, reference numbers 208 (as geographic), 210 and 212

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Figure 22, reference numbers 2214 and 2222

Figures 23, 24 and 26

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

Reference number 308 on page 28, paragraph 111.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "200" has been used to designate both data chart in Figure 4 and data chart in Figure 18 and the representations of the data charts differ in Figure 4 and Figure 18.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "208" has been used to designate both Geographical Information on Figure 18 and Transformation Rules on Figure 4.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "500" has been used to designate both data chart in Figure 7 and data chart in Figure 26 and the representations of the data charts differ in Figure 7 and Figure 26.

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Applicant is advised to review specification and drawings for similar discrepancies as this is not meant to be a comprehensive list of nonconformities within the specification and drawings for this application.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 97 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

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skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not mention or explain the use of a secondary auction in conjunction with a primary auction, the primary auction being updated based upon bids being received and transformed from the secondary auction. For purposes of examination, the Examiner will interpret the claim to state that an auction is held outside the primary auction for determining a price, and then that information is used in the bidding process of a primary auction.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 97 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 51, 82-86, 91-96 and 102-106 are rejected under 35 U.S.C. 102(e) as being anticipated by Pub. No. US 2001/0032167 A1 to Tulloch et al. (further referred to as Tulloch).

Regarding claim 51, Tulloch discloses a method for facilitating the sale of an item (page 1, paragraph 2; page 2, paragraph 27), comprising:

Initiating an auction for an item (page 1, paragraphs 2 and 13; page 2, paragraph 27; page 9, paragraph 113);

Receiving a bid for the item, the bid made by a bidding auction participant (page 1, paragraph 13; page 2, paragraph 27; page 9, paragraph 111);

Identifying a transformation function associated with the bid (page 2, paragraphs 14-15 and 27; page 7, paragraph 89-92; page 9, paragraph 111; Figure 4);

Applying the transformation function to the bid to produce a transformed bid (page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 7, paragraph 82; page 9, paragraph 111; Figure 4);

Updating a state of the auction based on the transformed bid (page 3, paragraph 36; page 5, paragraphs 60-61; page 8, paragraphs 103 and 105; page 9, paragraph 111); and

Generating status data representing the updated state of the auction (page 3, paragraph 36; page 5, paragraphs 60-61; page 8, paragraphs 103 and 105; page 9, paragraph 111).

Regarding claim 82, Tulloch discloses the method wherein the applying the transformation function to the bid further comprises:

Identifying a desired configuration associated with the bid (page 1, paragraphs 11-12; page 2, paragraph 27; page 4, paragraphs 54-55; page 6, paragraph 72); and

Modifying the bid to reflect the desired configuration (page 1, paragraph 13; page 2, paragraph 27; page 3, paragraphs 38-39; page 5, paragraph 56; page 6, paragraph 72).

Regarding claim 83, Tulloch discloses the method wherein the modifying the bid further comprises:

Comparing the desired configuration with price information to determine a price differential (page 1, paragraph 13; page 2, paragraphs 14-15; page 8, paragraph 97; page 9, paragraph 111); and

Combining the price differential with a bid price to generate the modified bid (page 2, paragraph 27; page 7, paragraph 89; page 8, paragraphs 97 and 103; page 9, paragraph 111).

Regarding claim 84, Tulloch discloses the method wherein the transformation function is a financial function (page 1, paragraph 13; page 2, paragraphs 14-15; page 3, paragraphs 38-39; page 8, paragraph 97; page 9, paragraph 111).



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Regarding claim 85, Tulloch discloses the method wherein the financing function includes at least a first parameter identifying a type of financing instrument (page 1, paragraphs 11-13; page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 6, paragraph 72; page 8, paragraph 97; page 9, paragraph 111).

Regarding claim 86, Tulloch discloses the method wherein the financing function includes information identifying at least one financing term (page 1, paragraphs 11-13; page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 6, paragraph 72; page 8, paragraph 97; page 9, paragraph 111).

Regarding claim 91, Tulloch discloses a method for participating in an auction comprising:

Registering to participate in an auction (page 2, paragraph 31; page 3, paragraph 36);

Establishing at least a first transformation function for use in the auction (page 2, paragraphs 14-15 and 27; page 7, paragraph 89-92; page 9, paragraph 111; Figure 4);

Submitting a bid on an item, the bid operated on by the at least first transformation function to create a transformed bid (page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 7, paragraph 82; page 9, paragraph 111; Figure 4);  
and

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Receiving a status of the auction, the status reflecting the transformed bid (page 3, paragraph 36; page 5, paragraphs 60-61; page 8, paragraphs 103 and 105; page 9, paragraph 111).

Regarding claim 92, Tulloch discloses an exchange registration method comprising:

Receiving information identifying a participant (page 2, paragraph 31; page 3, paragraph 36; page 4, paragraph 45); and

Establishing, based at least in part on the information identifying the participant, at least one transformation function for the participant, the at least one transformation function for use in transforming bids made by the participant in at least one exchange (page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 6, paragraph 72; page 7, paragraph 89-92; page 9, paragraph 111; Figure 4.

Regarding claim 93, Tulloch discloses a method for conducting an exchange, comprising:

Receiving, from a first buyer, a first bid for an item (page 1, paragraph 13; page 2, paragraph 27; page 9, paragraph 111);

Identifying a transformation function associated with the first bid (page 1, paragraph 13; page 3, paragraphs 38-39; page 6, paragraph 72; page 7, paragraphs 82 and 89-92; page 9, paragraph 111);

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Applying the transformation function to the first bid to produce a first transformed bid (page 1, paragraph 13; page 2, paragraph 27; page 8, paragraph 103; page 9, paragraph 111);

Receiving, from a second buyer, a second bid for the item (page 1, paragraph 13; page 2, paragraph 27; page 9, paragraph 111);

Identifying a second transformation function associated with the second bid (page 1, paragraph 13; page 3, paragraphs 38-39; page 6, paragraph 72; page 7, paragraphs 82 and 89-92; page 9, paragraph 111);

Applying the second transformation function to the second bid to produce a second transformation bid (page 1, paragraph 13; page 2, paragraph 27; page 8, paragraph 103; page 9, paragraph 111); and

Comparing the first and second transformed bids and accepting the best as the current best bid of the exchange (page 3, paragraph 36; page 8, paragraph 103; page 9, paragraph 111).

Regarding claim 94, Tulloch discloses an auction method comprising:

Presenting item configuration options to a participant (page 4, paragraphs 45 and 54-55; page 5, paragraphs 56-60; page 6, paragraph 72);

Receiving information identifying a desired configuration (page 4, paragraphs 45 and 54-55; page 5, paragraphs 56-60; page 6, paragraph 72);

Associating the desired configuration with the participant (page 4, paragraphs 45 and 54-55; page 5, paragraphs 56-60; page 6, paragraph 72);

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Receiving a bid on the item from the participant (page 1, paragraph 13; page 2, paragraph 27; page 9, paragraph 111);

Modifying the bid to reflect the desired configuration (page 2, paragraph 27; page 6, paragraph 70; page 8, paragraph 103; page 9, paragraph 111); and

Updating a status of the auction based on the modified bid (page 3, paragraph 36; page 5, paragraph 61; page 8, paragraph 103; page 9, paragraph 111).

Regarding claim 95, Tulloch discloses a method for participating in an auction, comprising:

Indicating a preferred configuration of an item offered in an auction (page 4, paragraphs 45 and 54-55; page 5, paragraphs 56-60; page 6, paragraph 72);

Viewing a status of the auction, the status modified based on the preferred configuration (page 8, paragraph 103); and

Submitting a bid on the item, the bid modified based on the preferred configuration (page 4, paragraph 44; page 5, paragraphs 61 and 67-68).

Regarding claim 96, Tulloch discloses a method for operating a secondary auction (page 6, paragraph 70), comprising:

Receiving, from a participant, a request for an item (page 1, paragraph 13; page 2, paragraph 27);

Identifying a primary auction offering the item (page 2, paragraphs 27 and 29; page 6, paragraph 70);

Receiving auction information from the primary auction (page 2, paragraphs 30-31; page 3, paragraphs 35-36; page 8, paragraph 103);

Presenting the auction information to the participant (page 2, paragraphs 30-31; page 3, paragraphs 35-36; page 8, paragraph 103);

Receiving, from the first participant, a bid on the item (page 1, paragraph 13; page 2, paragraph 27; page 9, paragraph 111);

Identifying at least a first transformation function associated with the first participant (page 1, paragraph 13; page 3, paragraphs 38-39; page 6, paragraph 72; page 7, paragraphs 82 and 89-92; page 9, paragraph 111); and

Applying the at least first transformation function to the bid to generate a transformed bid (page 1, paragraph 13; page 2, paragraph 27; page 8, paragraph 103; page 9, paragraph 111).

Regarding claim 102, Tulloch discloses a method for conducting an auction, comprising:

Receiving a bid (page 1, paragraph 13; page 2, paragraph 27);

Identifying an item and an auction based at least in part on the bid (page 2, paragraphs 27 and 29; page 6, paragraph 70);

Identifying at least a first customized financing term associated with the bid (page 1, paragraphs 11-13; page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 6, paragraph 72; page 8, paragraph 97; page 9, paragraph 111); and

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Updating a status of the auction to reflect the bid and the at least first customized financing term (page 3, paragraph 36; page 5, paragraph 61; page 8, paragraph 103; page 9, paragraph 111).

Regarding claim 103, Tulloch discloses the method further comprising:  
determining if the bid is a winning bid of the auction (page 3, paragraphs 33 and 36); and

Settling the auction based on the at least first customized financing term.  
(page 3, paragraph 33; page 8, paragraph 103; page 9, paragraph 111).

Regarding claim 104, Tulloch discloses the method further comprising identifying a type of financing instrument based at least in part on the bid (page 1, paragraphs 11-13; page 7, paragraphs 82 and 91).

Regarding claim 105, Tulloch discloses the method wherein the determining includes comparing the bid with a second bid to identify a best bid (page 3, paragraph 36; page 8, paragraph 103).

Regarding claim 106, Tulloch discloses the method wherein the comparing further comprises comparing the at least first customized financing term of the bid with at least a first customized financing term of the second bid (page 3, paragraph 36; page 8, paragraph 103).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 52-72, 81, 87-90 and 98-101 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tulloch.

Regarding claim 52, Tulloch discloses a method further comprising:

Identifying a second transformation function (page 7, paragraphs 82 and 89-92);

Applying the second transformation function to produce a transformed status (page 6, paragraphs 70 and 72; page 7, paragraphs 82 and 89-92; page 8, paragraph 103);

Displaying the transformed status (page 3, paragraph 36; page 5, paragraphs 60-61; page 8, paragraphs 103 and 105; paragraph 111).

Tulloch does not disclose receiving a status request from a requesting auction participant. However, Tulloch discloses a system in which an online auction occurs in real time (page 5, paragraph 61) and wherein bids and updates are sent to participants (page 3, paragraphs 35-36; page 5, paragraph 61) per transformation functions (page 3, paragraphs 38-39) per the format or transformed style that is required for the particular participant (page 6, paragraphs 70 and 72) in order to know where they stand in the auction process (page 8, paragraph 103; page 9, paragraph 111). It would be obvious to one of ordinary skill in the art that this method could be performed automatically anticipating that participants in an auction are going to want to be aware of the up to date information and status of the auction, as disclosed by Tulloch, or that it could be prompted by a request. Both techniques of automatically supplying information and of accepting requests for updates are both old and well known.

Regarding claim 53, Tulloch discloses a method wherein the auction is a sell-side auction and wherein the bid is an offer to purchase, and wherein the bidding auction participant is a buyer (page 1, paragraph 5; page 2, paragraph 28; page 9, paragraph 113).

Regarding claim 54, Tulloch discloses a method further comprising:

Registering a seller as a participant in the auction (page 1, paragraph 5; page 2, paragraph 30; page 3, paragraph 36; Figure 1);



Identifying at least one seller-associated transformation (page 3, paragraphs 38-39; Figure 4); and

Establishing sell-side auction rules (page 1, paragraph 13, page 3, paragraph 32).

Regarding claim 55, Tulloch discloses a method wherein the requesting auction participant is a seller (page 1, paragraph 30; page 3, paragraph 33; Figure 1), and the second transformation function applied to the status data is the at least one seller-associated transformation (page 3, paragraphs 38-39; page 7, paragraphs 82 and 89-90; Figure 4).

Regarding claim 56, Tulloch discloses a method further comprising:

Registering at least one buyer desiring the item (page 2, paragraph 31; page 3, paragraph 36); and

Identifying at least one buyer-associated transformation for the at least one registered buyer (page 3, paragraphs 38-39; page 6, paragraph 72; page 7, paragraphs 82 and 89-92; Figure 4).

Regarding claim 57, Tulloch discloses a method wherein the transformation function applied to the bid is the at least one buyer-associated transformation (page 3, paragraphs 38-39; page 6, paragraph 72; page 7, paragraphs 82 and 89-92; Figure 4).

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Regarding claim 58, Tulloch discloses a method wherein the requesting auction participant is a buyer (page 2, paragraph 31; page 3, paragraph 36), and the second transformation function applied to the status data is the at least one buyer-associated transformation (page 3, paragraphs 38-39; page 6, paragraph 72; page 7, paragraphs 82 and 89-92; Figure 4).

Regarding claim 59, Tulloch discloses a method further comprising receiving and transforming multiple bids (page 2, paragraph 27) wherein updating the state of the auction further comprises:

Comparing the multiple transformed bids to determine which bid is the current best bid (page 3, paragraphs 33 and 36); and

Updating the state of the auction to identify the current best bid (page 3, paragraph 36).

Regarding claim 60, Tulloch discloses the method further comprising:

Awarding the item to the buyer for the terms set forth in the bid if the transformed bid is the current best bid at an end of a bidding period for the item (page 3, paragraph 33; page 9, paragraph 111).

Regarding claim 61, Tulloch discloses the method further comprising:

Identifying a winning buyer associated with a current best bid at the end of the auction (page 3, paragraphs 33 and 36); and

Notifying the winning buyer of the successful current best bid (page 5, paragraph 61; page 8, paragraph 103).

Regarding claim 62, Tulloch discloses the method further comprising notifying the seller of the winning buyer and the successful bid (page 1, paragraphs 11-12; page 3, paragraph 33).

Claims 63 - 72 are rejected based on the same prior art and reasoning as claims 53 – 62. Claims 53-62 are phrased in terms of a sell-side auction and claims 63-72 are phrased in terms of a buy-side auction. Tulloch discloses where among the many forms of electronic commerce and auctions include buyer-bidding auctions and seller-bidding auctions, supporting reverse and forward auctions (page 1, paragraph 5; page 2, paragraph 28; page 9, paragraph 113). Accordingly, it would be obvious to one of ordinary skill in the art that the same methods of registering participants, accepting and transforming bids, and determining and notifying a winner would apply in either a sell-side or buy-side auction.

Regarding claim 81, Tulloch discloses the method wherein the bidding auction participant and the requesting auction participant are the same auction participant (page 2, paragraph 30).

Regarding claim 87, Tulloch discloses the method wherein the identifying a financing function further comprises:

Identifying a type of the financing function (page 1, paragraphs 11-13; page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 6, paragraph 72; page 8, paragraph 97; page 9, paragraph 111);

Identifying at least a first term of the financing function (page 1, paragraphs 11-13; page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 6, paragraph 72; page 8, paragraph 97; page 9, paragraph 111); and

Associating the financing function with the auction participant (page 1, paragraphs 11-13; page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 6, paragraph 72; page 8, paragraph 97; page 9, paragraph 111).

Tulloch does not disclose receiving a request to establish a financing function. However, Tulloch discloses entering into negotiations (page 1, paragraphs 11-12) and it would be obvious to one of ordinary skill in the art that when two parties enter into negotiations, that a buyer will request a discount or a rebate or other terms of financing such as loan terms or loan percentages or price adjustments based on quantity purchases or based on being a preferred customer.

Regarding claims 88-89, Tulloch does not disclose the method wherein the identifying a type or term of financing function includes presenting a listing of available types or terms to the participant for selection. However, Tulloch discloses entering into negotiations (page 1, paragraphs 11-12) and it would be obvious to one of ordinary skill

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in the art that when two parties enter into negotiations, that a seller would present options related to available discounts or rebates or other terms of financing such as loan terms or loan percentages or price adjustments based on quantity purchases or based on being a preferred customer.

Regarding claim 90, Tulloch does not disclose the method wherein identifying a financing function further comprises searching a plurality of pre-established financing functions. However, Tulloch discloses entering into negotiations (page 1, paragraphs 11-12) and it would be obvious to one of ordinary skill in the art that when two parties enter into negotiations, that a seller would present options related to available discounts or rebates or other terms of financing such as loan terms or loan percentages or price adjustments based on quantity purchases or based on being a preferred customer which determine financial functions and to enable a buyer to select the financial function which best meets his business goals and objectives.

Regarding claim 98, Tulloch discloses a method for establishing customized financing terms for use in an auction, comprising:

Identifying a participant in the auction (page 2, paragraph 31; page 3, paragraph 36; page 4, paragraph 45);

Identifying a type of a financing instrument (page 1, paragraphs 11-13; page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 6, paragraph 72; page 8, paragraph 97; page 9, paragraph 111);

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Identifying at least a first term of the financing instrument to establish customized financing terms (page 1, paragraphs 11-13; page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 6, paragraph 72; page 8, paragraph 97; page 9, paragraph 111); and

Associating the customized financing terms with the participant for use in the auction (page 1, paragraphs 11-13; page 2, paragraphs 14-15 and 27; page 3, paragraphs 38-39; page 6, paragraph 72; page 8, paragraph 97; page 9, paragraph 111).

Tulloch does not disclose receiving a request to establish a financing function. However, Tulloch discloses entering into negotiations (page 1, paragraphs 11-12) and it would be obvious to one of ordinary skill in the art that when two parties enter into negotiations, that a buyer will request a discount or a rebate or other terms of financing such as loan terms or loan percentages or price adjustments based on quantity purchases or based on being a preferred customer.

Regarding claim 99, Tulloch discloses the method further comprising:

Receiving a bid on an item from the participant in the auction (page 1, paragraph 13; page 2, paragraph 27); and

Applying the customized terms to the bid (page 1, paragraphs 11-13; page 2, paragraphs 14 and 27).

Regarding claim 100, Tulloch discloses the method further comprising:

Applying the customized financing terms to the status of the auction to generate a transformed status (page 1, paragraph 13; page 2, paragraphs 14-15 and 27; page 6, paragraphs 70 and 72; page 7, paragraphs 82 and 89-92; page 8, paragraph 103);

Presenting the transformed status of the auction to the participant (page 3, paragraph 36; page 5, paragraphs 60-61; page 8, paragraphs 103 and 105; page 9, paragraph 111).

Tulloch does not disclose receiving a status request of the auction from the participant. However, Tulloch discloses a system in which an online auction occurs in real time (page 5, paragraph 61) and wherein bids and updates are sent to participants (page 3, paragraphs 35-36; page 5, paragraph 61) per transformation functions (page 3, paragraphs 38-39) per the format or transformed style that is required for the particular participant (page 6, paragraphs 70 and 72) in order to know where they stand in the auction process (page 8, paragraph 103; page 9, paragraph 111). It would be obvious to one of ordinary skill in the art that this method could be performed automatically anticipating that participants in an auction are going to want to be aware of the up to date information and status of the auction, as disclosed by Tulloch, or that it could be prompted by a request. Both techniques of automatically supplying information and of accepting requests for updates are both old and well known.

Regarding claim 101, Tulloch does not disclose the method wherein the identifying at least of a first term of the financing instrument depends at least in part on a credit rating of the participant. However, Tulloch discloses where a plurality of

parameters, including the reputation of the buying party are considered in negotiations (page 1, paragraphs 11-12) and it would be obvious to one of ordinary skill in the art that part of reputation would include a prospective buyer's credit rating.

Claims 73-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tulloch as applied to claim 52 above, and further in view of Experimental Economics by Douglas D. Davis and Charles A. Holt in 1992 (further referred to as Davis).

Regarding claim 73, Tulloch discloses a method wherein the bid is at least one of an offer to buy and an offer to sell, and wherein the bidding auction participant is at least one of a seller and a buyer (page 1, paragraph 5; page 2, paragraph 28; page 9, paragraph 113).

Tulloch does not disclose wherein the auction is a two-sided auction. However, Davis discloses wherein the auction is a two-sided auction (page 2, lines 7-9). It would be obvious to one ordinary skill in the art to combine the use of two-sided auctions as disclosed by Davis with the auction method as disclosed by Tulloch. The motivation would be that Tulloch establishes auction rules around various auction formats and the use of a two-sided auction format contributes to the greater goal of achieving price agreement, such as disclosed by Tulloch in which bids are transformed in an effort to create comparison of bids in a competitive environment.

Regarding claim 74, Tulloch discloses a method further comprising:



Registering at least one buyer and at least one seller of the item (page 1, paragraph 30; page 2, paragraph 28; page 3, paragraph 33; Figure 1);

Identifying at least one associated transformation for the at least one buyer and the at least one seller (page 3, paragraphs 38-39; Figure 4).

Tulloch does not disclose establishing two-sided auction rules. However, Davis discloses establishing two-sided auction rules (page 2, lines 1-9). It would be obvious to one of ordinary skill in the art to combine the use of two-sided auction rules for two-sided auctions as disclosed by Davis with the auction method as disclosed by Tulloch. The motivation would be that rules are established to govern the type of auction, such as the establishment of rules for buy-side or sell-side as disclosed by Tulloch.

Regarding claim 75, Tulloch discloses a method wherein the requesting auction participant is a buyer (page 1, paragraph 30; page 3, paragraph 33; Figure 1), and the second transformation function applied to the status data is the at least one identified transformation associated with the buyer (page 3, paragraphs 38-39; page 7, paragraphs 82 and 89-90; Figure 4).

Regarding claim 76, Tulloch discloses a method wherein the requesting auction participant is a seller (page 1, paragraph 30; page 3, paragraph 33; Figure 1), and the second transformation function applied to the status data is the at least one identified transformation associated with the seller (page 3, paragraphs 38-39; page 7, paragraphs 82 and 89-90; Figure 4).

Regarding claim 77, Tulloch discloses a method wherein the bidding auction participant is a buyer (page 1, paragraph 30; page 3, paragraph 33; Figure 1), and the transformation function applied to the bid is the at least one identified transformation associated with the buyer (page 3, paragraphs 38-39; page 7, paragraphs 82 and 89-90; Figure 4).

Regarding claim 78, Tulloch discloses a method wherein the bidding auction participant is a seller (page 1, paragraph 30; page 3, paragraph 33; Figure 1), and the transformation function applied to the bid is the at least one identified transformation associated with the seller (page 3, paragraphs 38-39; page 7, paragraphs 82 and 89-90; Figure 4).

Regarding claim 79, Tulloch does not disclose the method further comprising:  
Comparing the transformed buyer and seller bids to determine if there is a match;  
Binding a buyer and a seller for the terms set forth in their respective bids if their respective transformed bids match.

However, Davis discloses the method further comprising:  
Comparing the (transformed) buyer and seller bids to determine if there is a match (page 2, lines 10-12);  
Binding a buyer and a seller for the terms set forth in their respective bids if their respective (transformed) bids match (page 2, lines 12-14).

It would be obvious to one of ordinary skill in the art to combine the use of comparing and binding buyer and seller bids as disclosed by Davis with the auction method as disclosed by Tulloch. The motivation would be in that the implementation of a two-sided auction includes comparing buyer and seller bids and the multiple auction formats as disclosed by Tulloch and a two-sided auction format contributes to the greater goal of achieving price agreement, such as disclosed by Tulloch in which bids are transformed in an effort to create comparison of bids in a competitive environment.

Regarding claim 80, Tulloch does not disclose the method further comprising notifying the buyer and the seller associated with the matched bids that the bids have been matched. However, Davis discloses the method further comprising notifying the buyer and the seller associated with the matched bids that the bids have been matched (page 2, lines 10-14). It would be obvious to combine the notifying of matching bid participants as disclosed by Davis with the auction system as disclosed by Tulloch. The motivation would be that matched participants would want and need to know that their bids had been successfully matched and that a deal would be consummated based on the auction results. Tulloch discloses the means by which bidders are made aware of their bid standing and subsequently if they are the bid winner and it would be obvious to use notification of matched bids as well as notification of one-sided bids.

Claim 97 is rejected under 35 U.S.C. 103(a) as being unpatentable over “A Seasoned Foe Heads Probe of Auctioneers” by Alexandra Peers and Ann Davis, Feb 4, 200 (further referred to as Peers), and further in view of Tulloch.

Peers discloses a method for operating a primary auction, comprising:

Receiving, from a secondary auction, a bid for an item, and updating a state of the primary auction based on the bid (page 2, lines 51-54).

Peers does not disclose bids being transformed by at least one transformation function associated with an entity submitting the bid. However, Tulloch discloses bids being transformed by at least one transformation function associated with an entity submitting the bid (page 1, paragraph 13; page 2, paragraph 14-15 and 27; page 3, paragraphs 38-39; page 7, paragraphs 82 and 89-92; page 8, paragraph 97; page 9, paragraph 111; Figure 4).

It would be obvious to one of ordinary skill in the art to combine the use of transformed bids as discloses by Tulloch with the primary and secondary auctions as disclosed by Peers. The motivation would be that certain bidding individuals or entities have a special status and therefore should be granted preferential treatment in the value of the bids they place, such that those bids should be transformed when they are submitted.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Application WO 00/79463 A1 discloses automatically

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transforming bids based on factors such as trader preferential treatment or purchasing quantities. Transformations are made based on financial functions assigned to participants.

Any inquiry concerning this communication should be directed to Jennifer Liversedge whose telephone number is 571-272-3167. The examiner can normally be reached on Monday – Friday, 8:30 – 5 PM.

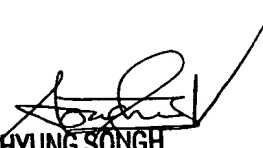
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached at 571-272-6799. The fax number for the organization where the application or proceeding is assigned is 571-273-8300.

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Jennifer Liversedge

Examiner

Art Unit 3628

  
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